

ORIGINAL

BEFORE THE

Federal Communications Commission

WASHINGTON, D.C. 20554

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In Re Matter of

Amendment of §73.202(b)
Table of Allotments
FM Broadcast Station
(White Stone, Virginia)

MAY 6 1992

RM Federal Communications Commission
Office of the Secretary

To: Chief, Allocations Branch, Policy and Rules Division,
Mass Media Bureau

PETITION FOR RULE MAKING

Windmill Communications, a General Partnership ("Petitioner"), by its attorney and pursuant to Section 1.401 of the Rules, hereby requests that the FM Table of Allotments be amended to substitute Channel 285A for Channel 261A at White Stone, Virginia and that the construction permit previously authorized to Windmill Communications be modified accordingly.

1. Windmill Communications is the permittee of FM broadcast station WNDJ authorized to operate on Channel 261A at White Stone, Virginia (File No. BPH-891018MK). Due to site restrictions on Channel 261A resulting from the need to meet the minimum distance separations of Section 73.213(c) of the Rules with respect to co-channel stations WYFJ, Ashland, Virginia and WBXB, Edenton, North Carolina, the permissible land area on which Station WNDJ could locate and still provide the requisite city grade coverage to White Stone is limited to two small peninsulas extending into Chesapeake Bay. See Figure 1 to the attached Engineering Statement of

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List A B C D E

duTreil, Lundin & Rackley, Inc. The land on these small protuberances into the Bay consists of inaccessible wetlands, wetlands or waterfront residential property. Under the Chesapeake Bay Preservation Act, any structure or construction has to be a minimum of 100 feet from water or "wetlands". Most of the land on these peninsulas approximates 100 feet from water, and is low land or considered "wetlands". The land adjacent to Windmill Point Road which is the only road on the Windmill Point peninsula, the largest of the two peninsulas, is zoned Residential-1 (R-1) which does not permit the construction of a radio tower. The northernmost peninsula has no road in the area in which a tower would have to be located. This low land is privately owned and slated for waterfront development. Discussions with local building and zoning officials have disclosed that it is unlikely that zoning approval for the petitioner's tower structure of 105.2 meters could be obtained. It is the opinion of the Building Land Use Administrator and the Zoning Officer of Lancaster County, Virginia that both zoning requirements and citizen opinion will have a deleterious effect on any proposal to construct a radio tower on the peninsula. Use of Channel 261A in these limited restricted areas is therefore improbable, at best.

2. Also, the peninsulas are in the flood plain, a contingency which will create additional difficulties in the placement of a transmitting facility requiring a large amount of electrical power. Any tower site on this unprotected flatland

electrical power. Any tower site on this unprotected flatland would also be subject to adverse weather conditions. In fact, Windmill Point was the target of a tornado less than two years ago and suffered considerable damage.

3. As a result of its current site restriction, WNDJ's coverage area is limited to 730 square kilometers with a population of 23,600. The requested allotment will double the land area served to 1540 square kilometers and increase the population served by 50% to 35,800 persons. Thus, there is a substantial public interest advantage in the requested allotment in terms of greatly improved service. The allotment will also permit Station WNDJ to increase power to six kilowatts, which it cannot do now because of co-channel spacing. Additionally, this proposal does not require changes in any other FM allotments.

4. In light of the foregoing, Petitioner is requesting the proposed allotment of Channel 285A to White Stone as a more efficient use of the frequency spectrum. Because of its severe site limitations, Channel 261A should be deleted and be made available for use in a more efficient manner in another location. In contrast to Channel 261A, Channel 285A will provide improved service to a substantially larger area and population and permit the location of a radio tower on land farther inland which is devoid of the environmental and zoning obstacles encountered by Petitioner at its presently available site. Should the requested

allotment be made by the Commission, Petitioner will immediately apply for the channel.

Wherefore, it is respectfully requested that this petition be granted and rulemaking be commenced to allot Channel 285A to White Stone, Virginia, in lieu of Channel 261A.

Respectfully submitted,

WINDMILL COMMUNICATIONS

By:

A handwritten signature in cursive script, appearing to read "Richard F. Swift", written over a horizontal line.

Richard F. Swift
Its Attorney

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May 6, 1992

TECHNICAL STATEMENT
IN SUPPORT OF
A PETITION FOR RULE MAKING
TO AMEND THE FM TABLE OF ALLOTMENTS
WINDMILL COMMUNICATIONS,
A GENERAL PARTNERSHIP
WHITE STONE, VIRGINIA

This technical statement and associated exhibits have been prepared on behalf of Windmill Communications, A General Partnership (herein "Petitioner"), in support of a Petition for Rule Making requesting amendment of 47 CFR 73.202(b) by the substitution of channel 285A for channel 261A at White Stone, Virginia and modification of the construction permit of station WNDJ, channel 261A, White Stone, Virginia accordingly. Petitioner is the permittee of station WNDJ (BPH-891018MK). Station WNDJ is presently authorized on channel 261A with an effective radiated power of 3.0 kilowatts and antenna height above average terrain of 100 meters. As proposed herein, the substitution of channel 285A for the authorized channel 261A facility would provide predicted primary FM service (1.0 mV/m or better) to an additional 810 square kilometers of land area encompassing an estimated additional 12,200 persons.

Proposed Change in FM Table of Allotments

Petitioner herein requests modification of the FM Table of Allotments, 47 CFR 73.202(b), by the substitution of channel 285A for channel 261A at White Stone, Virginia. The proposed change is as follows:

<u>City</u>	<u>Present</u>	<u>Proposed</u>
White Stone, Virginia	261A	285A

Compliance with FCC Rules

Due to site restrictions on channel 261A resulting from the need to meet the minimum distance separations of 47 CFR 73.213(c) with respect to co-channel stations WYFJ, Ashland, Virginia and WBXB, Edenton, North Carolina, the permissible land area on which WNDJ could locate and still provide the requisite city coverage to White Stone is limited to two small peninsulas extending into the Chesapeake Bay (see Figure 1). Due to anticipated zoning restrictions, petitioner does not expect to be able to build the required tower structure within this permissible area to locate.

There is, however, a larger area within which a class A facility on channel 285 could be located, meet the minimum distance separations of 47 CFR 73.207(b), and provide the requisite coverage of White Stone. An allocation study was performed assuming a hypothetical site approximately 7 kilometers northwest of White Stone and is included as Figure 2. The coordinates for the hypothetical site used in the allocation study are:

37° 42' 00" North Latitude

76° 26' 00" West Longitude.

As can be seen in the tabulation in Figure 2, the minimum distance separations of 47 CFR 73.207(b) are met from this hypothetical site.

Population and Area

Assuming a maximum class A facility from this hypothetical site, the land area and population (1990 Census) within the 1.0 mV/m (60 dB μ) primary service contour was determined.¹ Likewise the land area and population within the 1.0 mV/m (60 dB μ) contour for the presently authorized 261 A facility was determined. The present and proposed area and population figures compare as follows:

	<u>Proposed Facility</u>	<u>Present Facility</u>
Land Area (sq. km.)	1,540	730
Population (1990)	35,800	23,600

Thus, it can be seen that, as compared with the authorized facility, a channel 285A facility, as proposed above, will provide primary service to an additional land area of 810 square kilometers and to an estimated, additional 12,200 persons.

Conclusion

Channel 285A can be substituted for channel 261A at White Stone, Virginia in compliance with all applicable Commission rules. Therefore, Petitioner requests the

¹The land area was determined by use of a polar planimeter, taking into account the appropriate map scale factor. The population was determined by use of a computer program which sums the populations of 1990 census districts having centroids which are within the specified contour.

substitution of channel 285A for channel 261A at White Stone, Virginia and the modification of the construction permit of FM station WNDJ accordingly.

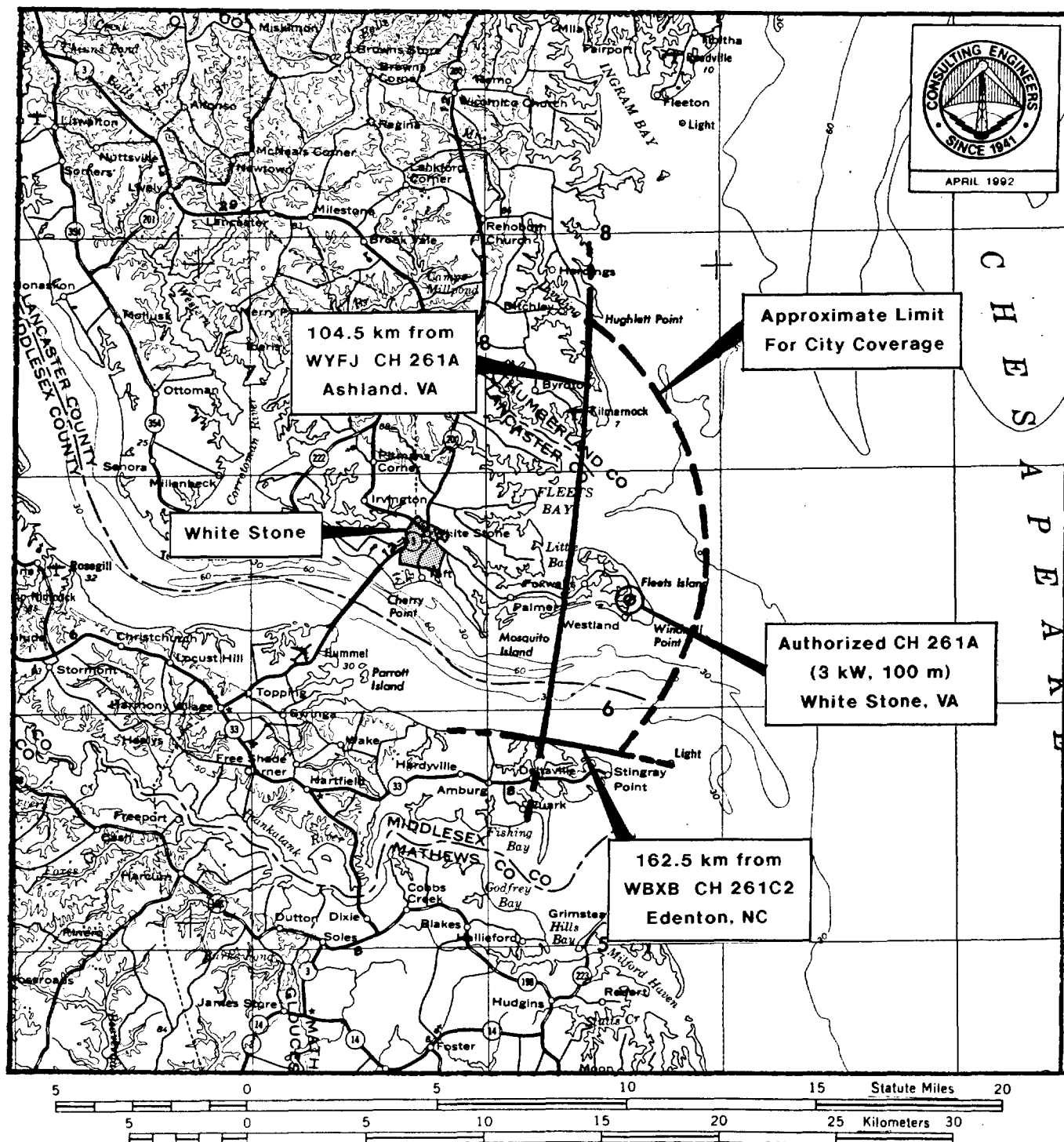


David E. Dickmann

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April 30, 1992

Figure 1



PERMISSIBLE SITE ZONE CHANNEL 261A

WHITE STONE, VIRGINIA

CERTIFICATE OF SERVICE

I, Catherine M. Violette, a secretary in the law firm of Tierney & Swift, do hereby certify that on the 6th day of May, 1992, that a copy of the foregoing "Petition for Rule Making was delivered by hand to:

Michael C. Ruger
Acting Chief, Allocations Branch
Policy and Rules Division, Room 8322
Mass Media Bureau
Federal Communications Commission
Washington, D. C.

Catherine M. Violette
Catherine M. Violette

Figure 2

TECHNICAL STATEMENT
IN SUPPORT OF
A PETITION FOR RULE MAKING
TO AMEND THE FM TABLE OF ALLOTMENTS
WINDMILL COMMUNICATIONS,
A GENERAL PARTNERSHIP
WHITE STONE, VIRGINIA

Allocation Study, Channel 285A

Proposed Site: 37° 42' 00" North
76° 26' 00" West

Call Status	City State	FCC File No.	Channel Freq.	ERP(kW) HAAT(m)	Latitude Longitude	Bearing deg-Tru	Dist. (km)	Req. (km)
WKOD LIC	Yorktown VA	BLH6792	231B 94.1	50. 152.0	37-29-37 76-26-30	181.8	22.93	15
WNVZ LIC	Norfolk VA	BLH810319AB	283B 104.5	50. 146.0	37-02-20 76-18-30	171.4	74.21	69
WQHQ LIC	Ocean City-Salisbury MD	BLH800505AB	284B 104.7	33. 186.0	38-23-15 75-17-30	52.2	125.97	113
WSVSFM CP	Crewe VA	BPH871106MH	284C1 104.7	100. DA 299.0	37-10-15 77-57-16	246.8	146.89	133
WSVSFM LIC	Crewe VA	BLH810309AC	284C1 104.7	100. 137.0	37-11-43 78-10-01	250.4	163.32	133
WKJE CP	Hertford NC	BPH841116NF	285A 104.9	3.00 86.0	36-10-45 76-21-12	177.6	168.93	115
WKJE PADD	Hertford NC	RM6315	285C2 104.9		36-08-42 76-28-20	181.2	172.61	166
WAVA LIC	Arlington VA	BLH891103KB	286B 105.1	41. 165.0	38-53-44 77-08-04	335.5	146.20	113
WMXN LIC	Norfolk VA	BLH4836	287B 105.3	50. 152.0	36-48-43 76-27-49	181.6	98.60	69
WRARFM CPM	Tappahannock VA	BMPH910801ID	288A 105.5	6. 100.0	37-52-27 76-43-37	307.0	32.30	31
WRARFM LIC	Tappahannock VA	BMLH891212KF	288A 105.5	3.3 91.0	37-57-08 76-48-57	310.0	43.80	31